

**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
CONSUMER SERVICES DIVISION**

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Mortgage Broker Practices Act of Washington by:

NO. C-04-016-04-CO01

K & R FINANCIAL, INC.,
KIRK A. DESPAIN, Owner and Designated
Broker, and RAECHEL R. DESPAIN, Owner
Respondents

CONSENT ORDER

COMES NOW the Director of the Department of Financial Institutions (Director), through her designee Chuck Cross, Division Director, Division of Consumer Services, and K & R Financial, Inc., Kirk A. DeSpain, Owner and Designated Broker, and Raechel R. DeSpain, Owner (hereinafter collectively as "Respondents"), and finding that the issues raised in the captioned matter may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 19.146 of Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondents have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-04-016-04-SC01 (Statement of Charges), entered March 4, 2004, (copy attached hereto). Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondents hereby agree to the Department's entry of this Consent Order and further agree that the issues raised in the above captioned matter may be economically and efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve the Statement of Charges entered March 4, 2004.

Based upon the foregoing:

A. Jurisdiction. It is AGREED that the Department has jurisdiction over the subject matter of the activities discussed herein.

CONSENT ORDER

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DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8795

1 **B. Waiver of Hearing.** It is AGREED that Respondents have been informed of the right to a hearing before
2 an administrative law judge, and that they have waived their right to a hearing and any and all administrative and
3 judicial review of the issues raised in this matter, or of the resolution reached herein.

4 **C. Mortgage Broker License.** It is AGREED that Respondents shall immediately surrender their mortgage
5 broker license. It is further AGREED that Respondents shall immediately provide the Department with a fully
6 completed "Mortgage Broker Office Closure/License Surrender Form."

7 **D. Affidavit of Non-Activity.** It is AGREED that Respondent Kirk A. DeSpain and Respondent Raechel R.
8 DeSpain shall each immediately provide the Department with an Affidavit of Non-Activity, declaring the date
9 Respondent K & R Financial, Inc. ceased operation as a Mortgage Broker in the State of Washington, and declaring
10 that each Respondent transacted no further business requiring a license from the Department after that date.

11 **E. Restriction on Participation in the Industry.** It is AGREED that Respondents shall be prohibited from
12 participating in the conduct of the affairs of any licensed mortgage broker in the State of Washington, in the capacity of
13 an officer or principal, for a period of five (5) years from the entry of this Consent Order. HOWEVER, any time after
14 three (3) years of such prohibition, Respondents may pay to the Department a fine of \$6,000.00 in the form of a
15 cashier's check made payable to the "Washington State Treasurer" in order to reduce the term of the prohibition.

16 **F. Application for Mortgage Broker License.** It is AGREED that Respondents shall not apply to the
17 Department for any license under any name for a period of five (5) years from the entry of this Consent Order.
18 HOWEVER, if Respondents choose to reduce their term of prohibition as described in paragraph E, Respondents may
19 apply to the Department for a license after three (3) years from the entry of this Consent Order.

20 **G. Fine.** It is AGREED that, consistent with paragraph E, should Respondents so choose, at any time after
21 three (3) years from the date of entry of this Consent Order, Respondents may pay to the Department a fine of
22 \$6,000.00 in the form of a cashier's check made payable to the "Washington State Treasurer".

23 **H. Annual Assessments.** It is AGREED that Respondents shall pay to the Department the cumulative
24 delinquent main office and branch office annual assessments due through January 31, 2002 totaling \$2,089.62 (\$513.95

each for the main office and branch office annual assessments for the year ended January 31, 2001, and \$530.86 each for the main office and branch office annual assessments for the year ended January 31, 2002), in the form of a cashier's check made payable to the "Washington State Treasurer" upon entry of this Consent Order.

I. Investigation Fee. It is AGREED that Respondents shall pay to the Department an investigation fee of \$286.68, calculated at \$47.78 per hour for six (6) staff hours devoted to the investigation, in the form of a cashier's check made payable to the "Washington State Treasurer" upon entry of this Consent Order.

J. Compliance with the Law. It is AGREED that Respondents shall comply with the Mortgage Broker Practices Act and the rules adopted thereunder.

K. Non-Compliance with Order. It is AGREED that Respondents understand that failure to abide by the terms and conditions of this Consent Order may result in further legal action by the Director. In the event of such legal action, Respondents may be responsible to reimburse the Director for the cost incurred in pursuing such action, including but not limited to, attorney fees.

L. Authority to Execute Order. It is AGREED that the undersigned have represented and warranted that they have the full power and right to execute this Consent Order on behalf of the parties represented.

M. Voluntarily Entered. It is AGREED that the undersigned Respondents have voluntarily entered into this Consent Order, which is effective when signed by the Director's designee.

N. Completely Read, Understood, and Agreed. It is AGREED that Respondents have read this Consent Order in its entirety and fully understand and agree to all of the same.

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RESPONDENTS:

CONSENT ORDER

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DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8795

1 **K & R Financial, Inc.**

2 By:

3 _____
4 Kirk A. DeSpain
5 Owner and Designated Broker

_____ Date

6 _____
7 Kirk A. DeSpain, Individually

_____ Date

8 _____
9 _____
10 Raechel R. DeSpain
11 Owner

_____ Date

12 _____
13 Raechel R. DeSpain, Individually

_____ Date

14
15 THIS ORDER ENTERED THIS 14th DAY OF June, 2004.

16 _____
17 /s/ _____
18 CHUCK CROSS
19 Director and Enforcement Chief
20 Division of Consumer Services
21 Department of Financial Institutions
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